

# FOREIGN AFFAIRS MANUAL



## VOLUME 9 – Visas

**Transmittal Letter:** VISA-184

**Date:** January 22, 1999

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## PARTS 40, 41 AND 42

### MAJOR CHANGES

1. 40.26 Regs/Statutes: Pub. L. 105-292 amended INA 212(a)(2) to prevent issuance of visas to foreign government officials (and their spouses and children) who have been responsible for, or who directly participated in, certain particularly severe forms of religious persecution, including torture, prolonged detention without charges, abduction, clandestine detention, etc.
2. 40.91 Regs/Statutes: Contains a minor non-substantive wording change.
3. 40.103 Regs/Statutes: Section 2226 of the Foreign Affairs and Restructuring Act of 1998 (Division G of Pub. L. 105-277) amended INA 212(a)(10)(C) by making ineligible any person who intentionally assists, provides material assistance or safe haven to, or is the spouse, child (other than the abducted child), parent, sibling or agent of, an alien who has illegally abducted a child is inadmissible until the child is returned to the person granted custody. This provision is effective immediately.
4. 40.207 Regs/Statutes: Under section 2225 of the Foreign Affairs and Restructuring Act of 1998 (Division G of Pub. L. 105-277), a visa may be denied to any alien who, through the abuse of position (e.g., a governmental official), converts property for personal gain that has been confiscated or expropriated, and to which a national of the United States has a claim. This provision is effective immediately.
5. 40.208 Regs/Statutes: Section 616 of the Foreign Affairs and Restructuring Act of 1998 (Division G of Pub. L. 105-277) extends for an additional year the prohibition on expenditure of funds for issuance of a visa to certain Haitians who have been credibly found to have been involved in political killings in Haiti or who were members of certain identified political groups which were involved in such actions. This provision is effective immediately.
6. 40.209 Regs/Statutes: Pub. L. 105-277, Title I, section 103 of the Chemical Weapons Convention Implementation Act (Division I of the Foreign Affairs and Restructuring Act of 1998), excludes any officer or employee of the "organization for the prohibition of chemical weapons,"

who or any corporate officer, principal or shareholder with a controlling interest, who has been involved in the unauthorized disclosure of any "United States confidential business information" in a manner not authorized by the convention, and his or her spouse, child, or agent, shall be denied a visa and shall be excluded from the United States. These provisions are effective immediately.

7. 41.3 Regs/Statutes: Amends "Mongolian People's Republic" to "Mongolia". The name of the country was changed in 1993. [63 FR 48577, Sep. 11, 1998.]
8. 41.12 Regs/Statutes: Corrects the visa symbols for aliens classified under INA 101(a)(15)(S). [63 FR 48577, Sep. 11, 1998.]
9. 41.21 Regs/Statutes: Amends the sections formerly "General" to read "Foreign Officials—General. [63 FR 48577, Sep. 11, 1998.]
10. 41.31 Regs/Statutes: Section 431 of the American Competitiveness and Workforce Improvement Act (Title IV sections 401-431 of Pub. L. 105-277) permits any alien admitted under INA 101(a)(15)(B) to accept honoraria and incidental expenses payment for "usual academic activities" (as defined by the attorney general) lasting no longer than 9 days at any single institution, as long as such activities are conducted for the benefit of the institution or entity and if the alien has not accepted such payment or expense from five such institutions during the previous six month period. This provision is effective immediately.
11. 41.32 Regs/Statutes and 41.107 Regs/Statutes: Section 410 (Title III of Pub. L. 105-277) changes the visa processing fee for aliens under the age of 15 applying for the BCC/NIV when such application is made in Mexico by a Mexican citizen who has at least one parent or guardian who has or is applying for his or her own BCC/NIV. The fee for processing such child's application will be \$13. This section has a delayed effective date in order to allow the Secretary of State to adjust the MRV fee for other applicants to compensate for the reduced child's fee, if it is necessary to do so.
12. 41.101 Regs/Statutes: Corrects the reference to "INA 214(k)" to read "INA 214(l)". [63 FR 36365, July 6, 1998.]
13. 42.1 Notes and Procedural Notes: Notes and Procedural Notes have been added to provide guidance for processing humanitarian parole cases.
14. 42.22 Regs/Statutes: Sec. 304(b) Pub. L. 104-208 repealed INA 212(c). Section 42.22(c) is removed accordingly. [63 FR 48577, Sep. 11, 1998.]
15. 42.32(d)(1) Regs/Statutes: Sec. 1 of Pub. L. 105-54 extended the deadline for special immigrant religious workers to enter the United States until October 1, 2000. [63 FR 4394, Jan. 29, 1998.]

16. 42.32(d)(7) Procedural Notes: Procedural Notes have been added regarding the allocation and reporting of visas issued under INA 101(a)(27)(K).
17. 42.51 Regs/Statutes: Sections 42.51(a)(2) and 42.51(d) are removed since these regulations were promulgated to implement special immigrant programs which have now ended. [63 FR 48577, Sep. 11, 1998.]
18. 42.54 Regs/Statutes: Nonsubstantive editorial changes have been made to Section 42.54.
19. 42.64 Regs/Statutes: Section 631(a) of Pub. L. 104-208 changed the validity of an immigrant from 4 months to six months. Section 42.64(a) has been amended accordingly. [62 FR 27693, May 21, 1997.]
20. 42.81 Exhibit III: This exhibit is removed. It is now Exhibit I of Appendix D (TL:VISA-168 dated 8-8-1997).
21. Revisions since the last update appear in italics. The italics will be removed the next time the section is updated. Only the current changes will appear in italics. Italics provide the historical record of changes.
22. Officers are reminded that Department-issued materials not codified in the *Foreign Affairs Manual* or its supplemental *Foreign Affairs Handbook* series generally have no regulatory validity [see 2 FAM 1115.2].

## FILING INSTRUCTIONS

1. Insert the new Section 40.26 Regs/Statutes after Section 40.25 Regs/Statutes.
2. Remove Section 40.91 Regs/Statutes (TL:VISA-177; 04-30-1998 – 2 pages) and insert the revised identically numbered section.
3. Remove Section 40.103 Regs/Statutes (TL:VISA-159; 12-20-96 – 1 page) and insert the revised identically numbered section.
4. Remove Section 40.207 Regs/Statutes (TL:VISA-181; 11-20-1998 – 3 pages) and insert the revised identically numbered section.
5. Remove Section 40.208 Regs/Statutes (TL:VISA-175; 01-15-1998 – 2 pages) and insert the revised identically numbered section.
6. Insert the new Section 40.209 Regs/Statutes after Section 40.208 Regs/Statutes.
7. Remove Section 41.3 Regs/Statutes (TL:VISA-117; 6-21-95 – 2 pages) and insert the revised identically numbered section.

8. Remove Section 41.12 Regs/Statutes (TL:VISA-111; 5-23-95 – 2 pages) and insert the revised identically numbered section.
9. Remove Section 41.21 Regs/Statutes (TL:VISA-2; 8-30-87 – 2 pages) and insert the revised identically numbered section.
10. Remove Section 41.31 Regs/Statutes (TL:VISA-9; 3-23-88 – 2 pages) and insert the revised identically numbered section.
11. Remove Section 41.32 Regs/Statutes (TL:VISA-177; 04-30-1998 – 5 pages) and insert the revised identically numbered section.
12. Remove Section 41.101 Regs/Statutes (TL:VISA-177; 04-30-1998 - 3 pages) and insert the revised identically numbered section.
13. Remove Section 41.107 Regs/Statutes (TL:VISA-175; 01-15-1998 – 3 pages) and insert the revised identically numbered section.
14. Remove Section 42.1 Notes (TL:VISA—144; 6-28-96 – 9 pages) and insert the revised identically numbered section.
15. Remove Section 42.1 Procedural Notes (TL:VISA-144; 6-28-96 – 4 pages) and insert the revised identically numbered section.
16. Remove Section 42.22 Regs/Statutes (TL:VISA-179; 08-21-1998 – 6 pages) and insert the revised identically numbered exhibit.
17. Remove Section 42.32(d)(1) Regs/Statutes (TL:VISA-175; 01-15-1998 - – 3 pages) and insert the revised identically numbered section.
18. Insert the new Section 42.32(d)(7) Procedural Notes after Section 42.32(d)(7) Notes.
19. Remove Section 42.51 Regs/Statutes (TL:VISA-159; 12-20-96 – 11 pages) and insert the revised identically numbered section.
20. Remove Section 42.54 Regs/Statutes (TL:VISA-135; 2-29-96 – 1 page) and insert the revised identically numbered exhibit.
21. Remove Section 42.64 Regs/Statutes (TL:VISA-3; 8-30-87 - 1 page) and insert the revised identically numbered section.
22. Remove 42.81 Exhibit III (TL:VISA-66; 9-30-92 – 2 pages) and destroy it.
23. After inserting the material in the binder, insert this transmittal letter immediately following the TL Checklist, fill in the entry line for TL:VISA-184, and initial.

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(CA/VO/L/R)